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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,051	03/24/2005	Sek Chung Fung	Case 1022	1772
<div>7590 10/09/2007</div> <div>Cheryl Liljestrand Tanox Inc 10301 Stella Link Road Houston, TX 77025-5497</div> <div>EXAMINER PARKIN, JEFFREY S</div> <div>ART UNIT 1648 PAPER NUMBER</div> <div>MAIL DATE 10/09/2007 DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,051

Applicant(s)

FUNG, SEK CHUNG

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-40 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant: Fung, S. C.

Docket No.: 1022
Filing Date: 03/24/2005

Unity of Invention

Unity of Invention-No Special Technical Feature Present

This application was filed under 35 U.S.C. § 371 and is subject to unity of invention practice pursuant to 35 U.S.C. § 121 and 372. If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under § 1.143 and § 1.144. This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1. In accordance with 37 C.F.R. § 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

- a. Group I, claim(s) 1-23, drawn to a method for preventing HIV infection through the administration of a synergistic combination of attachment and fusion inhibitors.
- b. Group II, claim(s) 24-34, drawn to a composition comprising both attachment and fusion inhibitors.
- c. Group III, claim(s) 35-38, drawn to a kit comprising attachment and fusion inhibitors in separate containers.
- d. Group IV, claim(s) 39 and 40, drawn to a "communication" means for conveying information.

If Group I is elected, a single combination of attachment and fusion inhibitor must also be elected, as well as, one specific other drug (i.e., one of IN inhibitors, RTIs, NNRTIs, and PR inhibitors). For instance, applicants must elect one compound in claim 9 from the group consisting of T-1249, T-649, 5-Helix, and pentafuside and the corresponding sub-genus in claim 7. Alternatively, applicants may elect one sub-genus from claim 8 (i.e., anti-gp41 abs or polypeptides 30-50 aa in length). Each of the aforementioned compounds has a different structure and target of action and fails to display any special technical feature. Moreover, each combination of attachment inhibitor, fusion inhibitor, and/or other viral inhibitors will require separate searches. This is NOT a species election but rather a restriction requirement. Applicants should identify all claims that read on the elected invention. Applicants are reminded that the claims should be amended to reflect the restriction requirement and election.

If Group II is elected, a single combination of attachment and fusion inhibitor must also be elected, as well as, one specific other drug (i.e., one of IN inhibitors, RTIs, NNRTIs, and PR inhibitors). For instance, applicants must elect one compound in claim 32 from the group consisting of T-1249, T-649, 5-Helix, and pentafuside and the corresponding sub-genus. Alternatively, applicants may elect one sub-genus from claim 31 (i.e., anti-gp41 abs or polypeptides 30-50 aa in length). Each of the aforementioned compounds has a different structure and target of action and fails to display any special technical feature. Moreover, each combination of attachment inhibitor, fusion inhibitor, and/or other viral inhibitors will require separate searches. This is NOT a species election but rather a restriction requirement. Applicants should identify all claims that read on

the elected invention. Applicants are reminded that the claims should be amended to reflect the restriction requirement and election.

If Group III is elected, a single combination of attachment (i.e., either anti-CD4 Abs or anti-gp120 Abs) and fusion inhibitor must also be elected, as well as, one specific other drug (i.e., one of IN inhibitors, RTIs, and PR inhibitors). Each of the aforementioned compounds has a different structure and target of action and fails to display any special technical feature. Moreover, each combination of attachment inhibitor, fusion inhibitor, and/or other viral inhibitors will require separate searches. This is NOT a species election but rather a restriction requirement. Applicants should identify all claims that read on the elected invention. Applicants are reminded that the claims should be amended to reflect the restriction requirement and election.

Accordingly, the inventions listed as Groups I-IV do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the claimed invention fails to make a contribution over the prior art (i.e., see the ISA Chapter I search report). Moreover, separate searches will clearly be required for each group.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. Applicant is also advised that the claims should be amended, where necessary, to reflect the restriction requirement and election.

Advisory Information

Applicant is advised that the final rules on claims and continuations were published in the Federal Register Tuesday, August 21, 2007. 72 Fed. Reg. 46716 (Aug. 21, 2007). As of **November 1, 2007**, the claims in each application may **NOT** exceed **5 independent claims** or **25 total claims** absent the applicant assisting the examination process through the filing of an Examination Support Document (ESD). The following is taken from the published rules package:

- Applicants may present, without an ESD, up to:
 - Five (5) independent claims or
 - Twenty-five (25) total claims in an application.
- Applicant may present more than 5/25 claims, if applicant files an ESD before the first Office action on the merits (FAOM).
- The 5/25 claim threshold does not count withdrawn claims.
 - Applicant may provide a suggested restriction requirement (SRR) before first Office action or a restriction requirement.
- The 5/25 claim threshold does count all of the claims present in other copending application(s) having a patentably indistinct claim, but not the claims in issued patents.
 - Applicant may present up to 15/75 claims via an initial application and 2 continuation or CIP applications prosecuted serially.

The final rules will become effective November 1, 2007, and will apply to all pending applications as of that date. Applicants are

advised to ensure that the elected claims are compliant with the new rules to avoid delay of prosecution. There will be no change to the examiner practice prior to the date the rules become effective. Information on the new rules is available at: <http://www.uspto.gov/web/offices/pac/dapp/opla/presentation/clmcontfinalrule.html>. Any questions concerning the new rules should **NOT** be directed toward the examiner, but rather toward one of the following: **email Patent.Practice@uspto.gov** or **call 571-272-7704**.

Correspondence

Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (571) 272-0908. The examiner can normally be reached Monday through Thursday from 10:30 AM to 9:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Bruce R. Campbell, Ph.D., can be reached at (571) 272-0974. Direct general status inquiries to the Technology Center 1600 receptionist at (571) 272-1600. Informal communications may be submitted to the Examiner's RightFAX account at (571) 273-0908.

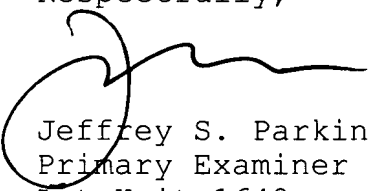
Applicants are reminded that the United States Patent and Trademark Office (Office) requires most patent related correspondence to be: a) faxed to the Central FAX number (571-273-8300) (updated as of July 15, 2005), b) hand carried or delivered to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), c) mailed to the mailing address set forth in 37 C.F.R. § 1.1 (e.g., P.O. Box 1450, Alexandria, VA 22313-1450), or d) transmitted to the Office using the Office's Electronic Filing System. This notice replaces all prior Office notices specifying a specific fax number or hand carry address for certain patent related correspondence. For further information refer to the Updated Notice of Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence, and Exceptions Thereto, 1292 Off. Gaz. Pat. Office 186 (March 29, 2005).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,



Jeffrey S. Parkin, Ph.D.
Primary Examiner
Art Unit 1648

29 September, 2007